3. **Remarks**

Amendment of Claims Objected to by Examiner

Claims 17, 21 – 25, 27, 29 34 and 35 were deemed allowable by the Examiner if rewritten in independent form including all limitations of the base claim and all intervening claims.

Claims 17, 27, 29, 34 and 35 have been rewritten in independent form as described above. Claims 21 – 25 depend from, now allowable, claim 17 and are thus themselves allowable.

Rejection of Claims 14-16, 32, 46-48 Under 35 U.S.C. §102(b)

The Examiner has rejected Claims 14-16, 32, and 46-48 under 35 U.S.C. §102(b) as being anticipated by Garrett, U.S. Pat. No. 6,001,332.

For a cited reference to support a rejection under 35 U.S.C. §102 the reference must show each and every element or step of the rejected claim or must inherently produce the invention as claimed. *See,* M.P.E.P. §§ 2112, 2112.01, 2131. As noted below, each of the pending claims, as amended, include limitations not taught or suggested by Garrett, and are, therefore allowable.

Claim 14 has been cancelled without prejudice.

Claim 15 as amended includes the limitation of

> infusing at least one facial orifice of the individual... wherein the orifice is selected from the group consisting of: at least one eye and at least one ear.

Garrett does not teach or suggest this limitation as it teaches inhalation of the gas described. As gas may not be inhaled through either an eye or an ear, Garrett cannot teach or suggest these limitations.

Claim 16 as amended includes the limitation of selecting the gaseous physiologically active agent from the group consisting of nitric oxide, nitrous oxide, dilute mixtures of nitric oxide, and isocapnic mixtures of acid gases. Garrett teaches a specific mixture of oxygen, carbon dioxide and helium, and therefore does not teach or suggest the use of the listed materials to infuse facial orifices.

Claims 32, and claims 46 - 48 have been amended to depend from allowable claim 17.

Rejection of Claims 18-20, 26, 28, 30, 31 and 33 Under 35 U.S.C. §103

The Examiner has rejected Claims 18-20, 26, 28, 30, 31 and 33 under 35 U.S.C. §103 as being unpatentable over Garrett. Applicants note that:

Claims 18 – 20, and 26 have been cancelled.

Claim 28 has been amended to depend from allowable claim 17.

Claims 30- 31 have been amended to depend from allowable claim 17.

Claim 33 has been cancelled.

Addition of Claims 49 - 55

Applicants have added claims 49 - 55 to better claim the invention. Applicants respectfully submit that the limitations as a whole are not taught or suggested by Garrett. Specifically, Garrett does not teach: a method that includes administering nitroglycerin together with infusing a facial orifice with CO_2; a method of controlling the effect of a drug for the treatment of headache or respiratory distress that includes infusing a facial oriface with CO_2 and/or NO; or a method that includes infusing a facial oriface with flows of both CO_2 and NO.

Conclusion

For the reasons set forth above, Applicant respectfully requests reconsideration and allowance of the pending claims.

Respectfully submitted,

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VERSION OF CLAIMS WITH MARKINGS TO SHOW CHANGES MADE

Claim 14. Cancelled without prejudice.

Claim 15. (Once Amended) A method for controlling the effect of a drug on an individual comprising:

Administering the drug;

Generating a flow of a gaseous physiologically active agent; and

Infusing at least one facial orifice of the individual with the gaseous physiologically active agent to enhance the action of the drug [A method as in claim 14,]

wherein the orifice is selected from the group consisting of: at least one eye and[,] at least one ear[, at least one nostril and a mouth].

Claim 16. (Once Amended) A method for controlling the effect of a drug on an individual comprising:

Administering the drug;

Generating a flow of a gaseous physiologically active agent; and

Infusing at least one facial orifice of the individual with the gaseous physiologically active agent to enhance the action of the drug,

wherein the gaseous physiologically active agent is selected from the group consisting of [carbon dioxide,] nitric oxide, nitrous oxide, [oxygen, helium,] dilute mixtures of nitric oxide, and isocapnic mixtures of acid gases.

Claim 17. (Once Amended) [A method as in claim 14,] A method for controlling the effect of a drug on an individual comprising:

Administering the drug;

Generating a flow of a gaseous physiologically active agent; and

Infusing at least one facial orifice of the individual with the gaseous physiologically active agent to enhance the action of the drug,

wherein the orifice is selected from the group consisting of a nostril and a mouth, and wherein the individual substantially inhibits the passage of the gaseous physiologically active agent into the trachea and lungs by limiting inhalation of the gaseous physiologically active agent.

Claims 18 – 20. Cancelled without prejudice.

Claim 21. A method as in claim 17, wherein the infusing step is performed after the administering step.

Claim 22. A method as in claim 17, wherein the infusing step is performed coincident with the administering step.

Claim 23. A method as in claim 17, wherein the infusing step is performed before the administering step.

Claim 24. A method as in claim 17, wherein both a nostril and a mouth are simultaneously infused.

Claim 25. A method as in claim 17, wherein both nostrils are simultaneously infused.

Claim 26. Cancelled without prejudice.

Claim 27. (Once Amended) A method for controlling the effect of a drug on an individual comprising:

Administering the drug;

Generating a flow of a gaseous physiologically active agent; and

Infusing at least one facial orifice of the individual with the gaseous physiologically active agent to enhance the action of the drug,

[A method as in claim 14]wherein the gaseous physiologically active agent is carbon dioxide and the infusing step further includes the individual inhaling the carbon dioxide

simultaneously with ambient air and the generating step further includes generating a flow of the carbon dioxide at a rate sufficient to produce a concentration of the carbon dioxide of between approximately 6% to 10% during inhalation.

Claim 28. (Once Amended) A method as in claim [15] 17 comprising at least one additional infusing step.

Claim 29. (Once Amended) A method for controlling the effect of a drug on an individual comprising:

Administering the drug;

Generating a flow of a gaseous physiologically active agent; and

Infusing at least one facial orifice of the individual with the gaseous physiologically active agent to enhance the action of the drug,

[A method as in claim 14,] wherein the gaseous physiologically active agent is diluted with air.

Claim 30. (Once Amended) A method as in claim [14] 17, further comprising the steps of:

Mixing the preselected amount of the drug and a preselected amount of the gaseous physiologically active agent to form a combination;

wherein the generating, administering and infusing steps occur substantially simultaneously and immediately after the mixing step; and the generating step further comprises generating a flow of the combination of the gaseous physiologically active agent and the drug.

Claim 31. A method as in claim 30, wherein the administering step further comprises inhaling the mixture of the gaseous physiologically active agent and the drug.

Claim 32. (Once Amended) A method as in claim [14] 17 wherein the gaseous physiologically active agent is a gas.

Claim 33. Cancelled without prejudice.

Claim 34. (Once Amended) A method for controlling the effect of a drug on an individual comprising:

Administering the drug;

Generating a flow of a gaseous physiologically active agent; and

Infusing at least one facial orifice of the individual with the gaseous physiologically active agent to enhance the action of the drug,

[A method as in claim 14]wherein the infusing step further includes the individual inhaling the gaseous physiologically active substance simultaneously with ambient air and the generating step further includes generating a flow of the gaseous physiologically active substance at a rate sufficient to produce a preselected concentration of the gaseous physiologically active substance during inhalation.

Claim 35. (Once Amended) A method for controlling the effect of a drug on an individual comprising:

Administering the drug;

Generating a flow of a gaseous physiologically active agent; and

Infusing at least one facial orifice of the individual with the gaseous physiologically active agent to enhance the action of the drug,

[A method as in claim 14] wherein the gaseous physiologically active agent is carbon dioxide and the infusing step further includes the individual inhaling the carbon dioxide simultaneously with ambient air and the generating step further includes generating a flow of the carbon dioxide at a rate sufficient to produce a concentration of the carbon dioxide of between approximately 5% to 70% during inhalation.

Claim 46. (Once Amended) The method of claim [14] 17 wherein the gaseous physiologically active agent is vasoactive.

Claim 47. (Once Amended) The method of claim [14] 17 wherein the gaseous

physiologically active agent is neuroactive.

Claim 48. (Once Amended) The method of claim [14] 17wherein the gaseous physiologically active agent is myoactive.

Claim 49. (New) A method of controlling the effect of nitroglycerin for the treatment of an ailment selected from a group consisting of angina and myocardial infraction in an individual comprising:

Administering the nitroglycerin;

Generating a flow of carbon dioxide;

Infusing at least one facial orifice of the individual with the carbon dioxide.

Claim 50. (New) The method of claim 49, further comprising a method as in claim 49 comprising at least one additional infusing step.

Claim 51. (New) A method of controlling the effect of a drug for the treatment of symptoms selected from a group consisting of headache and respiratory distress in an individual comprising:

Administering the drug;

Generating a flow of a gas selected from a group consisting of CO_2 and NO;

Infusing at least one facial orifice of the individual with the gas.

Claim 52. (New) A method of controlling the effect of NO in an individual comprising:

Generating a flow of NO;

Infusing at least one facial orifice of the individual with the flow of NO;

Generating a flow of CO_2;

Infusing at least one facial orifice of the individual with the flow of CO_2.

Claim 53. (New) A method of controlling the effect of CO_2 in an individual comprising:

Generating a flow of NO;

Infusing at least one facial orifice of the individual with the flow of NO;

Generating a flow of CO_2;

Infusing at least one facial orifice of the individual with the flow of CO_2.

Claim 54. (New) The method of claim 52, further including the step of mixing a preselected amount of NO and a preselected amount of CO_2 to form a combination; and the steps of generating a flow of NO and generating a flow of CO_2 comprise generating a flow of the combination.

Claim 55. (New) The method of claim 53, further including the step of mixing a preselected amount of NO and a preselected amount of CO_2 to form a combination; and the steps of generating a flow of NO and generating a flow of CO_2 comprise generating a flow of the combination.